

Application No. 10/578.003  
Paper Dated: January 10, 2007  
In Reply to USPTO Correspondence of 12/04/2006  
Attorney Docket No. 5000-061503

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit : 2859  
Application No. : 10/578,993  
Applicants : Eugene SHERRY et al.  
Filed : May 11, 2006  
Title : GAUGE FOR USE IN A  
SURGICAL PROCEDURE  
Confirmation Number : 5104

FILING OF THE COMBINED DECLARATION AND POWER OF ATTORNEY

BOX PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Attached hereto for filing in the above application is the original executed Combined Declaration and Power of Attorney.

The Notice of Acceptance and Filing Receipt have been received in the application. However, it would be appreciated if you would please insert the attached signed formal document in the file of the above-identified application.

"EXPRESS MAIL" mailing label number EV961839521US

Date of Deposit January 10, 2007

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Nora Ann Pastrick  
(Name of person mailing paper)

*Nora Ann Pastrick*  
(Signature of person mailing paper)

Respectfully submitted,  
THE WEBB LAW FIRM

By

*Russell D. Orkin*

Russell D. Orkin, Reg. No. 25,363  
Attorney for Applicants  
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**COMBINED DECLARATION AND POWER OF ATTORNEY**

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated below next to my name.

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

A Gauge for use in a Surgical Procedure

(Invention Title)

the specification of which:

☐ is filed concurrently herewith.

OR

☐ was filed as U.S. Application No. \_\_\_\_\_ on \_\_\_\_\_ (mm/dd/yyyy) and was amended on \_\_\_\_\_ (mm/dd/yyyy).  
(if applicable)

OR

☒ was filed as PCT International Application No. PCT/AU2004/001568 on 11/12/2004 (mm/dd/yyyy) and was amended under PCT Article 19 on \_\_\_\_\_ (mm/dd/yyyy) and/or PCT Article 34 on \_\_\_\_\_ (if applicable).  
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred to above.

I do not know and do not believe that the invention was ever known or used in the United States before my invention thereof; or patented or described in any printed publication in any country any time by others before my invention or by anyone more than one year prior to this application; or in public use or on sale in the United States by anyone more than one year prior to this application.

I do not know and do not believe that the invention has been patented or caused to be patented, or was the subject of an inventor's certificate, by me or my legal representatives or assigns in any country foreign to the United States on a patent application or inventor's certificate filed more than twelve months, or six months for a design application, prior to the filing date in the United States of this application.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) or (f), or §365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

PRIOR FOREIGN APPLICATION NO.	COUNTRY	FOREIGN FILING DATE (mm/dd/yyyy)	PRIORITY NOT CLAIMED	CERTIFIED COPY ATTACHED?	
2003906238	Australia	11/12/2003	<input type="checkbox"/>	YES <input type="checkbox"/>	NO <input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

APPLICATION NO.	FILING DATE

I hereby appoint the practitioners associated with

**Customer Number 28289**

to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith.

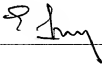
Please send all correspondence to Customer Number 28289.

Please direct all telephone calls to Russell D. Orkin, at telephone number (412) 471-8815.


The law firm of **THE WEBB LAW FIRM** whose address is 700 Koppers Building, 436 Seventh Avenue, Pittsburgh, Pennsylvania 15219-1845, Telephone No. 412-471-8815 has been assigned Customer Number 28289 by the United States Patent and Trademark Office.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

1.

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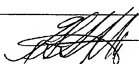
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\* Before signing this declaration each person signing must:

1. Review the declaration and verify the correctness of all information therein; and
2. Review the specification and the claims, including any amendments made to the claims.

☒ Checked Box indicates \_\_\_\_\_ additional page(s) for inventor signatures.

3.

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INVENTOR'S SIGNATURE	DATE
RESIDENCE	
COUNTRY OF CITIZENSHIP	
MAILING ADDRESS	

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